

OFFICE OF THE COUNTY ATTORNEY

HEMPHILL COUNTY, TEXAS

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FILE # ML-39887-97  
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October 31, 1997

Sarah Shirley, Chief, Opinion Committee  
Office of the Attorney General  
P. O. Box 12548  
Austin, Texas 78711-2548

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Opinion Committee

RE: Request for Attorney General's Opinion

Dear Ms. Shirley:

Hemphill County is considering providing health and medical benefits for employees through adoption of a single-employer self-funded plan with stop-loss insurance under the provisions of Subchapter A, Section 157, Local Government Code. Dependent coverage will be at the employee's expense. These benefits are currently provided through an interlocal contract under the provisions of the Government Code, Chapter 791. The Attorney General's Opinion is sought in the following areas:

I.

Please confirm my understanding that (except for direct purchase from an insurance carrier), Local Government Code Section 172.012 limits the County's coverage options to three methods:

- A. Coverage under the provisions of Subchapter A, Chapter 157, Local Government Code; or,
- B. Coverage through interlocal contract under the provisions of the Government Code Chapter 791 (the current coverage); or
- C. Coverage under the provisions of Chapter 172, Local Government Code.

II.

As to coverage provided under the provisions of Chapter 157 Local Government Code, please confirm my understanding that A. G. Opinion DM-276 (1993) still correctly states that:

- A. ERISA does not preempt state regulation of benefit plans established by governmental entities, and therefore a single-employer self-funded plan is regulated by the Insurance Code;

B. Insurance Code Article 3.51-9 requires benefits for chemical dependency to be at least as favorable as that of physical illness benefits;

C. Insurance Code Article 3.51-6 requires provisions for in vitro fertilization if coverage for pregnancy is provided;

D. Insurance Code Article 3.51-14 requires benefits for the care, diagnosis and treatment of serious mental illness is at least as favorable as that of physical illness benefits;

III.

Please confirm my understanding that the 1989 amendment of Section 157.002(a) Local Government Code which added dependents to the list of covered individuals implicitly overruled A. G. Opinion MW 473(1982) which stated the county could not collect premiums from employees for inclusion of dependents in a self-insurance fund.

IV.

Please confirm my understanding of that if the county complies with all requirements of Chapter 172 Local Government Code regarding establishment of a separate risk pool, that such pool is not subject to the requirements of the Insurance Code as a self-insurance fund under Chapter 157.

If other single-employer self-funded options are available, Hemphill County would appreciate identification of those options. I look forward to your reply.

Sincerely,



Charles L. Kesler